

Appl. No. 10/632,258  
Amdt. dated February 18, 2005  
Reply to Office Action of October 19, 2004

#### Remarks

Claims 1-33 are pending in the instant application with claims 5-7, 9, 10 and 20-31 withdrawn from consideration. Reconsideration of the present application in view of the following remarks is respectfully requested.

#### Rejections Under 35 U.S.C. § 112, Second Paragraph

By way of the Office Action mailed October 19, 2004, the Examiner rejected claims 18 and 19 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. This rejection is respectfully traversed.

With regard to claim 18, Applicants submit that there is support for the element of "said set of first graphics are related to said decorative theme" in the specification and in the Figures. For example, on page 15, lines 7-8, the specification sets forth (while referencing Fig. 5) that "the theme of the decorative graphics 60 is nautical, and the first graphic 54 is a pair of flippers." The Examiner notes that the Fig. 5 includes a sail boat as a decorative graphic. Further, Fig. 5 representatively illustrates a fish and waves as decorative graphics 60. Accordingly, the first graphic 54 being a pair of flippers is related to the nautical theme of the decorative graphics 60 illustrated in Fig. 5. As such, applicants respectfully assert that claim 18, and likewise claim 19, which depends from claim 18, particularly points out and distinctly claims the subject matter which the Applicants regard as the invention. Therefore, Applicants respectfully request that the rejections under 35 U.S.C. § 112 be withdrawn.

#### Rejections Under 35 U.S.C. § 102

Frankel does not disclose each and every element of the claimed invention.

By way of the Office Action mailed October 19, 2004, the Examiner rejects claim 33 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent No. 5,375,271, issued December 27, 1994, to Frankel (hereinafter "Frankel"). This rejection is respectfully traversed.

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Frankel is directed to a bath mat having temperature related indicia imprinted on a top side surface. See Abstract. Claim 33 of the present invention is directed to a disposable mat including, *inter alia*, "[a]t least one decorative graphic located on said second face, wherein said at least one decorative graphic has a decorative graphic theme and wherein said decorative graphic theme is related to the theme of article graphics of a disposable absorbent article."

Applicants assert that the bath mat of Frankel fails to disclose a mat including decorative graphics having a decorative graphic theme where the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article. On page 3 of the Office Action dated October 19, 2004, the Examiner asserts that the bath mat disclosed in Frankel "has a theme which is the head of an elephant...and wherein the theme is related to the theme of the article graphics...which are bubbles coming out of the elephants head." Applicants disagree. Initially, Applicants assert that bubbles are not thematically related to an elephants head. While the bubbles may be coming out of the Elephant's trunk, they are not related via a common theme with the picture of the elephants head. Moreover, claim 33 sets forth that the article graphics are "of a disposable absorbent article." Frankel does not disclose the bath mat having graphics that have a decorative graphic theme related to the graphics on a separate item, let alone the article graphics of a disposable absorbent article, such as a child's training pant, as described on Page 15, lines 16-29 of the specification. Accordingly, for at least these reasons, Applicants submit that claim 33 is patentable over Frankel.

Brown does not disclose each and every element of the claimed invention.

By way of the Office Action mailed October 19, 2004, the Examiner rejected claims 1-3, 8 and 11 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent No. 4,675,015, issued December 27, 1994, to Brown (hereinafter "Brown"). This rejection is respectfully traversed.

Brown is directed to a disposable diaper having a separable panel formed in its front portion over the umbilical area of an infant. See Abstract. Claim 1 of the present invention is directed to a disposable mat including, *inter alia*, a holding mechanism configured to increase resistance of the mat to movement when the first face of the mat is placed upon a planar surface.

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On page 4 of the Office Action dated October 19, 2004, the Examiner asserts that "the Brown article...is capable of being used as a mat if so desire (*sic*, desired)." The Examiner also believes that the adhesive tabs of Brown disclose a holding mechanism. Applicants disagree. The disposable diaper of Brown does not disclose the disposable mat of the present invention. In particular, the diaper of Brown is intended to be placed around the bottom of an infant (Col. 1, lines 54). Thus, such an article does not disclose and is not suited for use as a disposable mat.

In addition, the adhesive tabs 13 of Brown do not disclose a holding mechanism configured to increase the resistance of the mat to movement when the first face of the mat is placed upon a planar surface. Instead, as set forth in Col. 1, lines 54-57 of Brown, the adhesive tabs fasten the front and back portions of the diaper together about the wearers waist, which is also illustrated in Fig. 1 of Brown. As such, the adhesive tabs 13 are not configured to increase resistance when the first face of the diaper (which the examiner asserts is the outer layer 25 of the diaper) is placed upon a planar surface as the adhesive would not be contacting the planar surface. Thus, for at least these reasons, Applicants submit that independent claim 1 is patentable over Brown. Moreover, claims 2, 3, 8 and 11, which all eventually depend from claim 1, are also accordingly patentable over Brown.

Barker does not disclose each and every element of the claimed invention.

By way of the Office Action mailed October 19, 2004, the Examiner rejected claims 1 and 3 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent No. 6,174,581, issued January 16, 2001, to Barker (hereinafter "Barker"). This rejection is respectfully **traversed**.

Barker is directed to a toilet skirt for being positioned around a toilet base and absorbing any moisture that collects thereat. See Abstract. Claim 1 of the present invention is directed to a disposable mat including, *inter alia*, at least one line of weakness being configured to allow the separation of a removable portion from the disposable mat and a holding mechanism configured to increase resistance of the mat to movement when the first face of the mat is placed upon a planar surface.

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On page 5 of the Office Action dated October 19, 2004, the Examiner asserts that the toilet skirt of Barker discloses "at least one line of weakness (30) being configured to allow the separation of a removable portion from the mat and a holding mechanism (col. 1, lines 59-60)." Applicants disagree. The toilet skirt of Barker does not disclose at least one line of weakness being configured to allow the separation of a removable portion from the disposable mat as asserted by the Examiner. Instead, Barker, at Col. 2, lines 36-40 and in Fig. 3, discloses that the perforation seam 30 is torn and a portion of the top layer 14 are flipped upwardly (emphasis added). As such, Barker does not include a removable portion that is separated from the disposable mat.

Further, the fact that Barker discloses "[i]f necessary, the flipped up portion can be taped or otherwise adhered to the toilet" (Col. 1, lines 59-60) does not disclose a disposable mat comprising a holding mechanism configured to increase the resistance of the mat to movement. That is, Barker does not disclose a disposable mat that includes a holding mechanism, but instead discloses a toilet skirt that may be "taped" or otherwise adhered to the toilet. Still further, such taping or adhering of the toilet skirt to the toilet does not disclose a holding mechanism configured to increase the resistance of the mat to movement when the first face of the mat is placed upon a planar surface. In particular, as stated by the Federal Circuit, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim." *Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). As set forth above, Barker clearly does not disclose each and every element of the claimed invention arranged as in the claim. Thus, for at least these reasons, Applicants submit that independent claim 1 is patentable over Barker. Moreover, claim 3, which eventually depends from claim 1, is also accordingly patentable over Barker.

Huffman does not disclose each and every element of the claimed invention.

By way of the Office Action mailed October 19, 2004, the Examiner rejected claims 1, 3, 8 and 11 under 35 U.S.C. § 102(e) as allegedly being anticipated and thus unpatentable over U.S. Patent No. 6,763,531, issued July 20, 2004, to Huffman (hereinafter "Huffman"). This rejection is respectfully traversed.

Huffman is directed to a method for the containment of fluids that flow from a bowl of a commode installed in an aircraft lavatory. See Abstract. Claim 1 of the present invention is directed to a disposable mat including, *inter alia*, at least one line of weakness being configured to allow the separation of a removable portion from the disposable mat and a holding mechanism

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configured to increase resistance of the mat to movement when the first face of the mat is placed upon a planar surface.

On page 5 of the Office Action dated October 19, 2004, the Examiner asserts that the apron of Huffman discloses "a holding mechanism (60)." Applicants disagree. Huffman, at Col. 3, lines 18-20 discloses that "fastening points 60 are used to secure...the apron 10 to fixed anchors 90." As such, Huffman does not disclose a mat including a holding mechanism configured to increase the resistance of the mat to movement when the first face of the mat is placed upon a planar surface. That is, the fastening points 60 of Huffman do not increase the resistance of the mat to movement but must instead be secured to fixed anchors. As mentioned, the Federal Circuit has stated that "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim." *Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). Thus, as described above, Huffman clearly does not disclose each and every element of the claimed invention arranged as in the claim. Thus, for at least these reasons, Applicants submit that independent claim 1 is patentable over Huffman. Moreover, claims 3, 8 and 11, which eventually depend from claim 1, are also accordingly patentable over Huffman.

In conclusion, and for least the reasons set forth above, Applicants respectfully request that the rejections under 35 U.S.C. § 102 be withdrawn.

#### **Rejections Under 35 U.S.C. § 103**

##### **Brown does not teach or suggest each and every element of the claims.**

By way of the Office Action mailed October 19, 2004, the Examiner rejected claim 4 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Brown.

Claim 4 depends from claim 1 and further recites that the at least one line of weakness is provided by ultrasonic bonds. In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

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The Examiner acknowledges that Brown does not disclose that the at least one line of weakness is provided by ultrasonic bonds. Moreover, as discussed above in connection with the rejection of claim 1 over Brown, Applicants assert that Brown fails to teach or suggest a disposable mat or a disposable mat including a holding mechanism. Instead, Brown teaches away from such a disposable mat by disclosing a diaper including front and back portions that are fastened by adhesive tabs 13 on either side of an infant's waist. Accordingly, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness in rejecting claim 4. Thus, for at least these reasons, Applicants submit that claim 4 is patentable over Brown.

Huffman does not teach or suggest each and every element of the claims.

By way of the Office Action mailed October 19, 2004, the Examiner rejected claim 12 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Huffman.

Claim 12 eventually depends from claim 1 and further recites that at least a portion of the opening is at least 22 cm wide. The criteria for a *prima facie* case of obviousness are set forth above. The Examiner acknowledges that Huffman fails to disclose that at least a portion of the opening is at least 22 cm wide. Moreover, as discussed above in connection with the rejection of claim 1 over Huffman, Applicants assert that Huffman fails to teach or suggest a disposable mat including a holding mechanism configured to increase the resistance of the mat to movement when the first face of the mat is placed upon a planar surface. Instead, Huffman teaches away from such a disposable mat by disclosing an apron having fastening points that are secured to fixed anchors. Accordingly, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness in rejecting claim 12. Thus, for at least these reasons, Applicants submit that claim 12 is patentable over Huffman.

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Barker and Yoshiharu, alone or in combination, do not teach or suggest each and every element of the claims.

In the Office Action mailed October 19, 2004, the Examiner rejects claims 13-17 and 32 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Barker in view of published Japanese Patent Application 2002165729A, published June 11, 2002 in the name of Yoshiharu (hereinafter "Yoshiharu"). This rejection is respectfully traversed. The Examiner acknowledges that Barker fails to disclose the disposable mat of the present invention including a pair of first reference marks. The Examiner believes that Yoshiharu discloses a mat for use at a urination station including a pair of reference marks. The Examiner believes it would have been obvious to one of ordinary skill in the art to have modified the Barker mat with the reference marks of Yoshiharu.

Claims 13-17 all eventually depend from claim 1, and therefore include the element of a removable portion that is separated from the disposable mat and a holding mechanism configured to increase the resistance of the mat to movement. Similarly, claim 32 also includes these limitations. For the reasons previously provided herein, Barker does not teach or suggest the disposable mat claimed of claim 1 or claim 32. In addition, Yoshiharu fails to correct the deficiencies of Barker. That is, Yoshiharu fails to teach or suggest a mat with a removable portion that is separated from the disposable mat and a holding mechanism configured to increase the resistance of the mat to movement. Therefore, the combination of Barker and Yoshiharu cannot teach or suggest the disposable mat of claims 13-17 and 32. Accordingly, for at least these reasons, Applicants respectfully submit that claims 13-17 and 32 are patentable over Barker in view of Yoshiharu.

Barker and Tokiko, alone or in combination, do not teach or suggest each and every element of the claims.

In the Office Action mailed October 19, 2004, the Examiner rejects claims 13-17 and 32 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Barker in view of published Japanese Patent Application 2002209799A, published July 30, 2002 in the name of Tokiko (hereinafter "Tokiko"). This rejection is respectfully traversed. The Examiner acknowledges that Barker fails to disclose the disposable mat of the present invention including a decorative graphic.

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The Examiner believes that Tokiko discloses a mat for protecting the floor including a decorative graphic. The Examiner believes it would have been obvious to one of ordinary skill in the art to have modified the Barker mat with the decorative graphics of Tokiko.

Claims 18 and 19 eventually depend from claim 1, and therefore include the element of a removable portion that is separated from the disposable mat. For the reasons previously provided herein, Barker does not teach or suggest the disposable mat claimed of claim 1. In addition, Yoshiharu fails to correct the deficiencies of Barker. That is, Tokiko fails to teach or suggest a mat with a removable portion that is separated from the disposable mat. Therefore, the combination of Barker and Yoshiharu cannot teach or suggest the disposable mat of claims 18 and 19.

Further, Claim 18 also includes the elements of the at least one decorative graphic has a decorative graphic theme and the pair of first reference marks are provided by a set of first graphics, and where the set of first graphics are related to said decorative graphic theme. Neither Barker nor Tokiko, alone or in combination teach or suggest first reference marks, let alone the elements of the first reference marks being provided by a set of first graphics where the set of first graphics are related to said decorative graphic theme.

Still Further, claim 19 depends from claim 18 and further recites that the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article. Neither Barker nor Tokiko, alone or in combination teach or suggest a disposable absorbent article including article graphics, let alone a mat including a decorative graphic theme that is related to the theme of article graphics of a disposable absorbent article. Accordingly, for at least these reasons, Applicants respectfully submit that claims 18 and 19 are patentable over Barker in view of Tokiko.

In conclusion, and for least the reasons set forth above, Applicants respectfully request that the rejections under 35 U.S.C. § 103 be withdrawn.

#### **Prior Art Made of Record and Not Relied Upon**

Applicants have reviewed the references cited by the Examiner but not relied upon in rejecting the claims. However, Applicants assert that such cited references fail to teach or suggest the inventions recited in the rejected claims. Accordingly, the pending claims are patentable over such references.



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In conclusion, and in view of the above amendments and remarks, reexamination, reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. §§ 112, 102 and 103 are respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in condition for allowance and such action is earnestly solicited. If the Examiner has any questions or if there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-3862.

Please charge any fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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#### CERTIFICATE OF FACSIMILE

I, Barbara D. Miller, hereby certify that on February 18, 2005, this document is being transmitted via facsimile to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, to facsimile number 703-872-9306.

By: 

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